IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 24415 of 2004

Between:

Siddhartha Residential School, rep., by its Secretary,
V.Ramakrishna Prasad, Edupugallu, Vijayawada, Krishna District.

..... PETITIONER

AND

The Asst.Commissioner, Employees Provident Fund Organisation,
Lakshmipuram, Guntur.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction especially one in the nature of writ of prohibition declaring the action of the respondent in issuing the impugned order No.AP/SRO/GLT/PD/COMP-II/19052/KST /04/1329, dt.6-10-2004 without considering the explanation dt.2-08-2004 and the affidavit filed on 8-11-2004 as illegal, intentional, mala fide, arbitrary and contrary to the rules and consequently set-aside the same as illegal and pass all necessary orders in the above circumstances of the case in the interest of justice.

Counsel for the Petitioner: MR.K.V.BHANU PRASAD

Counsel for the Respondent: M/S B.KAVITA YADAV

The Court at the stage of admission made the following ORDER:

The petitioner is an educational institution. Proceedings were initiated by the respondent for recovery of certain amount. A show cause notice dated 14-11-2003 was issued to the petitioner pointing out that he committed default in payment of the provident fund for the period from 1995 to 2003. The petitioner submitted an explanation. On consideration of the same, the respondent passed an order dated 06-10-2004 holding that the petitioner is liable to pay a sum of Rs.8,40,297/-, which was communicated to him on 30-11-2004. The petitioner challenges the same.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondent.

Though several contentions are advanced on behalf of the petitioner touching on the merits as well as the procedural aspects, this Court is not inclined to deal with the same, at this stage. Under Section 7-I of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short 'the Act'), an appeal is provided to an appellate authority. The merits of the matter can be effectively appreciated and examined by the appellate authority. On behalf of the petitioner, it is stated that as a condition precedent for availing the remedy of appeal, 75% of the amount due is required to be paid and since the educational institution is closed, it is impossible for them to comply with the condition.

From the impugned order, it is evident that the liability under Section 14-B of the Act is fixed at Rs.6,50,718/- and the penalty of Rs.1,89,579/- is levied under Section 7-Q of the Act. Taking into account the fact that the petitioner is a non-functional educational institution, this Court is of the view that ends of justice would be met, if the petitioner is permitted to prefer an appeal on depositing a sum of Rs.2,00,000/-, within a period of four weeks from today.

Hence, the writ petition is disposed of directing that it shall be open to the petitioner to prefer an appeal, under Section 7-I of the Act, by depositing a sum of Rs.2,00,000/-. If the appeal is presented within four weeks from today duly complying with the condition, it shall be entertained as having been filed within limitation and further proceedings for recovery of the amount shall stand stayed till the disposal of the appeal.

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09-03-2005

kdl

To

1 The Asst.Commissioner, Employees Provident Fund Organisation,
Lakshmipuram, Guntur.

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